

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRUCE CORKER, *et al.*, on behalf of
themselves and others similarly situated,

Plaintiff,

v.

COSTCO WHOLESALE
CORPORATION, *et al.*,

Defendant.

Case No. 2:19-CV-00290-RSL

**FINAL JUDGMENT AND
ORDER OF DISMISSAL**

The Honorable Robert S. Lasnik

THIS MATTER comes before the Court upon the unopposed “Motion for Final Approval of the Class Settlement” filed by Plaintiffs. The Court, being fully advised of the premises of the Motion, FINDS:

1. Plaintiff commenced this action by filing their Complaint on February 27, 2019, and ultimately filed a Third Amended Complaint on April 30, 2020 (Dkt. 381) (“Complaint”). Plaintiffs alleged that the defendants violated the Lanham Act, 15 U.S.C. § 1125, by misleadingly labeling and selling coffee not from the Kona region as “Kona” coffee. On November 12, 2019, this Court denied motions to dismiss Plaintiffs’ original complaint (Dkt. 155), and discovery began.

2. Plaintiffs have negotiated class action settlements with eight defendants: (1) BCC Assets LLC d/b/a Boyer’s Coffee (“BCC”), (2) Cameron’s Coffee and Distribution Company (“Cameron’s”), (3) Copper Moon Coffee, LLC (“Copper Moon”), (4) Cost Plus Inc. (“Cost Plus”), (5) Pacific Coffee, Inc., d/b/a Maui Coffee Company (“MCC”), (6) Gold Coffee Roasters, Inc., Costa Rican Gold Coffee Company, Inc., and John Parry (“Gold”), (7) Costco Wholesale

1 Corporation (“Costco”), and (8) The TJX Companies, Inc. and Marshalls of MA, Inc. (together,
 2 “TJX”). (collectively, “Settling Defendants”). The Settlement Agreements with BCC,
 3 Cameron’s, Copper Moon, Cost Plus, and MCC were attached as Exhibits 1-5 to the declaration
 4 of counsel accompanying the Motion for Preliminary Approval of Class Action Settlements,
 5 filed on January 29, 2021 (Dkt. 394-1 through 5), and the Settlement Agreements with Gold,
 6 TJX, and Costco, were filed on March 8, 2021 as Exhibits 1-3 to the Motion for Preliminary
 7 Approval of Class Action Settlements, filed on March 8, 2021 (Dkt. 412-1 through 3).
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9 3. Through the Settlement Agreements, Settling Defendants will fully and
 10 completely satisfy the claims of Class Members relating to the claims alleged by Plaintiffs in the
 11 Third Amended Complaint by paying Class Members a total payment of \$13,105,750, and
 12 provide injunctive relief relating to the labeling of the Kona coffee products at issue. Attorneys’
 13 fees and costs of Class Counsel and administrative costs will be paid from the Settlement Fund.
 14 By entering into the Settlement Agreements, the Settling Defendants made no admissions
 15 relating to the claims raised in this lawsuit, nor did Plaintiffs make admissions relating to the
 16 Settling Defendants’ Defenses.
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18 4. The Settlement Class, as defined in each of the Settlement Agreements, includes
 19 the following: All persons and entities who, between February 27, 2015, and the date of Court’s
 20 order granting preliminary approval to the settlement, farmed Kona coffee in the Kona District
 21 and then sold their Kona coffee. Excluded from the Settlement Class are any defendants to the
 22 action, as well as any judge assigned to the action, and the judge’s immediate family and staff.
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24 5. The Settlement Agreements describe the claims that are being settled on behalf of
 25 the Class (defined as the “Settled Claims”). The Settlement Agreements and their terms,
 26 including the definitions, are incorporated into this Final Judgment And Order of Dismissal (the

1 “Final Judgment”) as if fully set forth herein. The Settlement Agreements and Final Judgment
2 shall be referred to collectively herein as the “Settlements.”

3 6. This Court entered an Order dated February 17, 2021, directing that notice of the
4 proposed Settlements with the first five Settling Defendants be effectuated as to the Settlement
5 Class (Dkt. 400), and an Order dated March 9, 2021, directing that notice of the proposed
6 settlements with the three additional defendants be effectuated as to the Settlement Class (Dkt.
7 414) (together, “Preliminary Approval Orders”). The Preliminary Approval Orders set a hearing
8 for June 18, 2021 to determine whether the proposed Settlements should be approved as fair,
9 reasonable and adequate.
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11 7. In accordance with the Court’s Preliminary Approval Orders, the Settlement
12 Administrator caused to be mailed and emailed to potential members of the Settlement Class for
13 whom addresses could be located, a notice (the “Settlement Notice”) in the form approved by the
14 Court in the Preliminary Approval Orders. Also in accordance with the Court’s Preliminary
15 Approval Orders, the Settlement Administrator also caused the publication notice to be placed in
16 the *West Hawaii Today*. The Court finds that the Settlement Notice, along with the publication
17 notice, provided to potential members of the Settlement Class constituted the best and most
18 practicable notice under the circumstances, thereby complying fully with due process and Rule
19 23 of the Federal Rules of Civil Procedure. The Court did not receive any objections to the
20 Settlement from class members.
21

22 8. The Settling Defendants caused to be mailed to the appropriate federal and state
23 officials the materials required to be submitted by the Class Action Fairness Act, 28 U.S.C. §
24 1711, *et seq.* (“CAFA”). The Court finds that CAFA’s notice requirements have been satisfied.
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26 9. On June 18, 2021, the Court held a hearing on the proposed Settlements, at which

1 time all interested persons were given an opportunity to be heard. Furthermore, the Court has
 2 read and considered all submissions in connection with the Settlements. Having done so, the
 3 Court has determined that approval of the Settlements will bestow a substantial economic benefit
 4 on the Settlement Class, result in substantial savings in time and money to the litigants and the
 5 Court and will further the interests of justice, and that the Settlements are the product of good-
 6 faith arm's length negotiations between the Settling Parties.
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8 NOW, THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED,
 9 ADJUDGED AND DECREED THAT:

10 10. The Settlement Agreements, including all of the terms defined therein including
 11 but not limited to the definitions of "Settled Claims," are incorporated herein. Any terms used in
 12 this Final Judgment are governed by their definitions in the Settlement Agreements. The Court
 13 has jurisdiction over the subject matter of this litigation and all parties to this litigation, including
 14 all members of the Settlement Class.
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16 11. The certified Settlement Class is defined for purposes of the Settlement
 17 Agreements and this Final Judgment as set forth in Paragraph 4 above.
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19 12. Upon review and application of the factors set forth in Federal Rule of Civil
 20 Procedure 23(e)(2), the Court finds that the Settlements were made in good faith and their terms
 21 are fair, reasonable, and adequate as to the Settlement Class.

22 13. Therefore, the Settlements are approved in all respects, and shall be binding upon,
 23 and inure to the benefit of, all members of the Settlement Class.

24 14. All Settled Claims are hereby dismissed with prejudice.

25 15. This Final Judgment may not be used as an admission by or against Settling
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1 Defendants of any fact, claim, assertion, matter, contention, fault, culpability, obligation,
2 wrongdoing or liability whatsoever.

3 16. The Court has, by separate order, granted Class Counsel's "Motion for Attorneys'
4 Fees and Reimbursement of Litigation Expenses." The amount of Attorneys' Fees and Litigation
5 Expenses awarded to Class Counsel shall be distributed to Class Counsel by the Settlement
6 Administrator from the Settlement Funds.
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8 17. The Court reserves jurisdiction over this matter, the Settling Parties, and all
9 counsel herein, without affecting the finality of this Final Judgment, including over (a) the
10 implementation, administration, and enforcement of this Settlement and any award or
11 distribution from the Settlement Funds; (b) disposition of the Settlement Funds; and (c) other
12 matters related or ancillary to the foregoing.
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14 18. Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Court finds
15 that there is no reason for delay in the entry of this Final Order and Judgment as a final order and
16 final judgment, and the Court further expressly directs the Clerk of the Court to file this Final
17 Order and Judgment as a final order and final judgment.
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1 Enter: _____, 2021.

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3 BY THE COURT:

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5 Robert S. Lasnik
6 United States District Court Judge
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